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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,745	01/10/2001	John Rozen	11125-017001	8043
26161	7590	03/10/2005	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			KLINGER, SCOTT M	
			ART UNIT	PAPER NUMBER
			2153	
DATE MAILED: 03/10/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/757,745	ROZEN, JOHN	
	Examiner	Art Unit	
	Scott M. Klinger	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-8 and 10-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-8 and 10-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claims 1-3, 5-8, and 10-14 are pending.

Response to Arguments

Note: Applicant's arguments are in **bold** text. Examiner's responses are indented.

The office action's proposed association of elements from Hasebe with corresponding elements in the claims means that the "content server" 60 is somehow "inside," or a constituent part of, the "origin server" 200. This would mean that the purported "origin server" 200 would be busy Whenever the content server 60 is serving content. This defeats the purpose of having an origin server be separate from the content server.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *an origin server that is separate from the content server*) were not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In Hasebe, the local unit 200 responds to requests for content by retrieving desired content from the information distribution device 60 and serving that content. The local unit 200 does not respond to a request for content by providing an address of any sort. This is because the address to the autonomous system 30 is already known. If it were not already known, the local unit 200 could never have received a request for content to begin with.

Applicant's arguments have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made in view of Mockapetris.

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Claim Objections

Applicant is advised that should claim 6 be found allowable, claim 7 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 depends on cancelled claim 4.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, 7, and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasebe et al. (U.S. Patent Number 6,212,570, hereinafter "Hasebe") in view of Mockapetris (RFC 1035, Nov 1987, hereinafter "Mockapetris"). Hasebe discloses an information distribution device selection system.

In referring to claims 1, 10, and 13, Hasebe shows substantial features of the claimed invention, including:

- Identifying an autonomous system having a plurality of content servers:
"Then, the routing control function can be realized either only within the routing control autonomous system 30 (which indicates own communication network range at a time of exchanging routing information using external routing control means among communication network providers), or as a combination of a plurality of routing control autonomous system 30." (Hasebe, col. 7, line 65 – col. 8, line 4)
- Each of the content servers having a copy of the desired content, and
"Namely, it is an information distribution device selection system in which at least two or more information distribution devices 60 for realizing the same information providing are present on the inter-connected communication networks formed by a plurality of communication networks" (Hasebe, col. 7, lines 29-33)
- Providing said client with a shared address, said shared address being common to said content servers:
"the system comprising: a plurality of information distribution service communication networks which are physically different but having an identical communication network identifier" (Hasebe, col. 4, lines 1-4)
- Serving said client from an optimal content server selected from said plurality of content servers:
"one information distribution device 60 is selected from a plurality of these information distribution devices 60 that are present, by the user terminal device 10" (Hasebe, col. 7, lines 34-36)
- Said optimal content server having been selected on the basis of an optimal path from said client to said shared address:
"By the above mechanism for automatic registration of the routing information table, it is possible to realize the selection of a route to the logically closest information distribution device 60 among a group of the information distribution devices 60 which are currently

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capable of responding to a request destined to the information distribution service communication terminal identifier.” (Hasebe, col. 8, line 65 - col. 9, lines 4)

However, Hasebe is silent as to how the client obtains the address of the autonomous system. Hasebe does not explicitly show a server providing the address to the client. Nonetheless this feature is well known in the art and would have been an obvious modification to the system disclosed by Hasebe as evidenced by Mockapetris.

In analogous art, Mockapetris discloses the implementation and specification of domain names. Mockapetris shows a server receiving a request, said server responding to the request with a host address: *“Thus a user might ask for the host address or mail information associated with a particular domain name. To enable the user to request a particular type of information, an appropriate query type is passed to the resolver with the domain name.”* (Mockapetris, section 2.1, paragraph 2)

Given these teachings, a person of ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system of Hasebe so as to provide a server to respond to requests for host addresses, such as taught by Mockapetris, in order to replace IP addresses with easy to remember text names.

In referring to claims 2 and 11, Hasebe in view of Mockapetris shows,

- Identifying an optimal path between said client and said shared address:
Hasebe, col. 8, line 65 - col. 9, lines 4 (quoted above)
- Receiving a request from said client to connect to a content server at said shared address and designating a content-server on said optimal path to be said optimal content-server:
Hasebe, col. 8, line 65 - col. 9, lines 4 (quoted above)

In referring to claims 3 and 12, Hasebe in view of Mockapetris shows,

- Directing said client to reach said optimal content-server by following said optimal path
Hasebe, col. 8, line 65 - col. 9, lines 4 (quoted above)

In referring to claims 6 and 7, Hasebe shows substantial features of the claimed invention, including:

- An autonomous system including a first content server and a second content server having content in common with said first content server:
Hasebe, col. 7, lines 29-33 (quoted above)
- Said first and second content servers having a shared address:
Hasebe, col. 4, lines 1-4 (quoted above)
- Identifying an autonomous system having a plurality of content servers:
Hasebe, col. 7, line 65 – col. 8, line 4 (quoted above)
- A first router for relaying messages to said first content server and a second router for relaying messages to said second content server:
“a plurality of communication network exchange devices respectively provided in the information distribution service communication networks, each communication network exchange device having a routing control function for inter-connecting a corresponding information distribution service communication network with other information distribution service communication networks” (Hasebe, col. 4, lines 11-18); a network exchange device with a routing control function is, by definition, a router)

However, Hasebe is silent as to how the client obtains the address of the autonomous system. Hasebe does not explicitly show a server providing the address to the client. Nonetheless this feature is well known in the art and would have been an obvious modification to the system disclosed by Hasebe as evidenced by Mockapetris.

In analogous art, Mockapetris discloses the implementation and specification of domain names. Mockapetris shows a server receiving a request, said server responding to the request with a host address: *Mockapetris, section 2.1, paragraph 2 (quoted above)*

Given these teachings, a person of ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system of Hasebe so as to provide a server to respond to requests for host addresses, such as taught by Mockapetris, in order to replace IP addresses with easy to remember text names.

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Claims 5, 8, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasebe in view of Mockapetris and in further view of Stevens et al. (TCP/IP illustrated, Volume 1: The Protocols, hereinafter "Stevens").

In referring to claims 5, 8, and 14, although Hasebe shows substantial features of the claimed invention, including the system of claims 4, 6, and 13, Hasebe does not explicitly show the use of a Border Gateway Protocol (BGP) router. Nonetheless this feature is well known in the art and would have been an obvious type of router to use in the system disclosed by Hasebe as evidenced by Stevens.

In analogous art, Stevens discloses the use of BGP, a protocol used for communication between routers. Stevens shows:

"BGP is an exterior gateway protocol for communication between routers in different autonomous systems. BGP is a replacement for the older EGP that was used on the ARPANET. BGP Version 3 is defined in RFC 1267 [Lougheed and Rekhter 1991]." (Stevens, page 138)

"BGP is a distance vector protocol, but unlike RIP (which announces hops to a destination), BGP enumerates the route to each destination (the sequence of AS numbers to the destination). This removes some of the problems associated with distance-vector protocols. An AS is identified by a 16-bit number." (Stevens, page 139)

Given these teachings, a person of ordinary skill in the art would have readily recognized the desirability and advantages of using BPG routers in the system of Hasebe, such as taught by Stevens, in order to implement the content servers as autonomous systems, as desired by the system of Hasebe, and to "remove some of the problems associated with distance-vector protocols."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott M. Klinger whose telephone number is (703) 305-8285. The examiner can normally be reached on M-F 7:00am - 3:30pm.

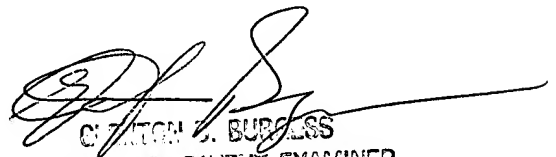
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott M. Klinger
Examiner
Art Unit 2153

smk


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